

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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JUANITA PAULINA CHAVEZ, *individually
and on behalf of others similarly situated,*

CASE NO.: 1:22-cv-07781-ER

Plaintiff,

vs.

THE FIFTH LABOR, LLC, *a New York limited
liability company,* and ANTHONY RHODES,
an individual,

Defendants.

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**NOTICE OF PLAINTIFF'S MOTION FOR CONDITIONAL CERTIFICATION
OF A COLLECTIVE ACTION AND LEAVE TO DISTRIBUTE NOTICE
PURSUANT TO 29 U.S.C. § 216(b)**

PLEASE TAKE NOTICE, that upon the accompanying Memorandum of Law in Support of Plaintiff's Motion for Conditional Certification of a Collective Action and Leave to Distribute Notice Pursuant to 29 U.S.C. § 216(b), the Affidavit of Juanita Paulina Chavez, submitted in support of Plaintiff's Motion, with Exhibits 1 through 3, annexed thereto, and all of the pleadings and proceedings heretofore had herein, Plaintiff will move this Court, on a date and time to be determined by the Court, at 40 Foley Square, New York, NY 10007, for an Order pursuant to 29 U.S.C. § 216(b) as follows:

- (1) Conditionally certifying this case as a collective action with respect to current and former employees who performed janitorial services for Defendants in New York at any time between September 2019, and the present, and did not receive overtime compensation at a rate of time and one-half their regular rate of pay for all hours over forty that they worked in a workweek;

- (2) Requiring Defendants, within fourteen days of the Court's Order, to produce a computer-readable data file containing the names, last known mailing addresses, all known home and mobile telephone numbers, all known email addresses, and dates of employment for all potential collective action members;
- (3) Permitting Plaintiff to disseminate the proposed notice to the potential collective action members and reminder notices thirty days thereafter in the form and manners requested by Plaintiff; and
- (4) Directing Defendants to post the Notice in a conspicuous place where Defendants' employees who perform janitorial services congregate.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Civil Rule 6.1 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, Defendants' opposition, if any, is to be served within fourteen days after service of the moving papers. Plaintiff's reply papers, if any, are to be served within seven days of Defendants' service of their opposition.

Dated: February 28, 2023

Respectfully Submitted,

Law Offices of Nolan Klein, P.A.

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By: /s/ Nolan Klein

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